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NITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERTO DURAND,)	
)	
Petitioner,)	
)	3:18-cv-00372-HDM-WGC
v.)	
)	
STATE OF NEVADA, et al.,)	ORDER
)	
Respondent.)	
)	
_____)	

This apparent 28 U.S.C. § 2254 action has not been properly commenced as petitioner filed only an application for leave to proceed *in forma pauperis* with no accompanying petition. It does not appear that a dismissal without prejudice would materially impact application of the limitations period or otherwise cause substantial prejudice.¹ Accordingly, this improperly commenced action will be dismissed without prejudice.

¹ The conviction petitioner apparently challenges, arising out of Case No. C-11-273021-1 in Eighth Judicial District Court, was entered in 2011 and affirmed by the Nevada Supreme Court in October 2012. See <https://www.clarkcountycourts.us/portal> (last accessed Aug. 14, 2018). It does not appear that any tolling motions or petitions were filed in state court before the one-year federal statute of limitations expired. See *id.*; <http://caseinfo.nvsupremecourt.us/public/publicActorSearch.do> (last accessed Aug. 14, 2018). It therefore appears that the statute of limitations in all likelihood expired more than four years ago.

It therefore is ordered that this action shall be dismissed without prejudice. Petitioner shall file any petition, and either pay the filing or fee or submit a complete pauper application, in a new action only, and shall not file any more documents in this case.

It further is ordered that a certificate of appealability is denied. Jurists of reason would not find debatable whether the court was correct in its dismissal of the action without prejudice on procedural grounds, for the reasons discussed herein.

It further is ordered, pursuant to Rule 4 of the Rules Governing Section 2254 Cases, that the clerk shall make informal electronic service upon respondents by adding Nevada Attorney General Adam P. Laxalt as counsel for respondents and directing a notice of electronic filing of this order to his office. No response is required from respondents other than to respond to any orders of a reviewing court.

The clerk shall send petitioner a copy of his papers in this action, along with two copies each of the forms and instructions for an inmate pauper application and § 2254 habeas petition.

Petitioner is advised that he must submit a pauper application or pay the filing fee at the same time he files a petition, or the action may be considered improperly commenced.

The clerk shall enter final judgment accordingly, dismissing this action without prejudice.

IT IS SO ORDERED.

DATED: This 17th day of August, 2018.

Howard D McKibbin

HOWARD D. MCKIBBEN
UNITED STATES DISTRICT JUDGE